

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SERGIO TORRES, individually and on behalf of  
others similarly situated,

Plaintiff,

-against-

GOLDEN HOME FURNITURE INC. d/b/a Golden  
Home Furniture; 7 STAR HOME FURNITURE INC.  
d/b/a 7 Star Furniture; MOHAMMAD ALDAOU;  
FRANK DOE; and DAVID ALDAOU a/k/a Akman,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 11/4/2021

1:20-cv-04789-MKV

ORDER GRANTING  
LEAVE TO AMEND

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff obtained from the Clerk of Court certificates of default as to Defendants Golden Home Furniture Inc. and 7 Star Home Furniture Inc. on October 15, 2020, [ECF Nos. 23, 24], and as to Defendants Mohammad Aldaou, Frank Doe, and David Aldaou on March 22, 2021 [ECF Nos. 37, 38, 39]. Plaintiff filed a Motion for Default Judgment on June 7, 2021, [ECF No. 41], which was denied without prejudice on August 10, 2021, [ECF No. 46].

The Court received a letter [ECF No. 48] filed by Plaintiff dated October 26, 2021, seeking leave to amend the Complaint [ECF No. 1] to include “supplementary information” with respect to the employer-employee relationship in this case. On October 26, 2021, the Court directed Plaintiff to file a proposed amended complaint, [ECF No. 49], which he did, [ECF No. 50].

“If [ ] after a default has been entered against a defendant, a plaintiff files an amended complaint which becomes operative, the entry of default becomes moot,” a motion for default judgment based on that default will be denied as moot, and the Clerk’s entries of default will be

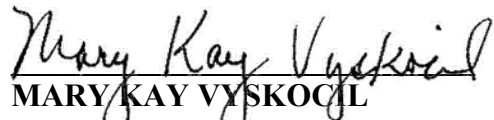
stricken. *Rattray v. Cadavid*, No. 17 CIV. 8560 (PGG), 2018 WL 11222583, at \*1 (S.D.N.Y. Aug. 31, 2018) (collecting cases).

IT IS HEREBY ORDERED that Plaintiff is granted leave to file a First Amended Complaint, which must be filed on or before November 19, 2021. Within 30 days of filing the First Amended Complaint, Plaintiff shall serve defendants with the amended complaint and file proof of service on the docket.

The Clerk of the Court is respectfully requested to strike the certificates of default [ECF Nos. 23, 24, 37, 38, 39].

**SO ORDERED.**

**Date: November 3, 2021**  
**New York, NY**

  
**MARY KAY VYSKOČIL**  
**United States District Judge**